

## § 1201.118

by the Board as significantly contributing to the Board's case law.

[76 FR 60707, Sept. 30, 2011, as amended at 77 FR 62370, Oct. 12, 2012]

### § 1201.118 Board reopening of final decisions.

Regardless of any other provision of this part, the Board may at any time reopen any appeal in which it has issued a final order or in which an initial decision has become the Board's final decision by operation of law. The Board will exercise its discretion to reopen an appeal only in unusual or extraordinary circumstances and generally within a short period of time after the decision becomes final.

[77 FR 62370, Oct. 12, 2012]

### § 1201.119 OPM petition for reconsideration.

(a) *Criteria.* Under 5 U.S.C. 7703(d), the Director of the Office of Personnel Management may file a petition for reconsideration of a Board final decision if he or she determines:

(1) That the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management, and

(2) That the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive.

(b) *Time limit.* The Director must file the petition for reconsideration within 35 days after the date of service of the Board's final decision.

(c) *Briefs.* After the petition is filed, the Board will make the official record relating to the petition for reconsideration available to the Director for review. The Director's brief in support of the petition for reconsideration must be filed within 20 days after the Board makes the record available for review. Any party's opposition to the petition for reconsideration must be filed within 25 days from the date of service of the Director's brief.

(d) *Stays.* If the Director of OPM files a petition for reconsideration, he or she also may ask the Board to stay its final decision. An application for a stay, with a supporting memorandum,

## 5 CFR Ch. II (1–15 Edition)

must be filed at the same time as the petition for reconsideration.

[54 FR 53504, Dec. 29, 1989. Redesignated at 59 FR 30864, June 16, 1994, as amended at 77 FR 62370, Oct. 12, 2012]

### § 1201.120 Judicial review.

Any employee or applicant for employment who is adversely affected by a final order or decision of the Board under the provisions of 5 U.S.C. 7703 may obtain judicial review as provided by 5 U.S.C. 7703. As §1201.175 of this part provides, an appropriate United States district court has jurisdiction over a request for judicial review of cases involving the kinds of discrimination issues described in 5 U.S.C. 7702.

[78 FR 39545, July 2, 2013]

## Subpart D—Procedures for Original Jurisdiction Cases

SOURCE: 62 FR 48451, Sept. 16, 1997, unless otherwise noted.

### GENERAL

### § 1201.121 Scope of jurisdiction; application of subparts B, F, and H.

(a) *Scope.* The Board has original jurisdiction over complaints filed by the Special Counsel seeking corrective or disciplinary action (including complaints alleging a violation of the Hatch Political Activities Act), requests by the Special Counsel for stays of certain personnel actions, proposed agency actions against administrative law judges, and removals of career appointees from the Senior Executive Service for performance reasons.

(b) *Application of subparts B, F, and H.*

(1) Except as otherwise expressly provided by this subpart, the regulations in subpart B of this part applicable to appellate case processing also apply to original jurisdiction cases processed under this subpart.

(2) Subpart F of this part applies to enforcement proceedings in connection with Special Counsel complaints and stay requests, and agency actions against administrative law judges, decided under this subpart.

(3) Subpart H of this part applies to requests for attorney fees or compensatory damages in connection with